

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

WRITTEN OPINION

(PCT Rule 66)

To: MICHAEL B. RAY
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SUITE 600
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WASHINGTON, DC 20005-3934

Date of Mailing
(day/month/year)

01 MAY 2003

Applicant's or agent's file reference

1988.006PC06

REPLY DUE

within **TWO** months
from the above date of mailing

International application No.

PCT/US01/43113

International filing date (day/month/year)

16 NOVEMBER 2001

Priority date (day/month/year)

17 NOVEMBER 2000

International Patent Classification (IPC) or both national classification and IPC
Please See Supplemental Sheet.

Applicant

FOUNDRY NETWORKS, INC.

1. This written opinion is the first (first, etc.) drawn by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☒ Non-establishment of opinion with regard to novelty, inventive step or industrial applicability
- IV ☒ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

3. The applicant is hereby invited to reply to this opinion.

When? See the time limit indicated above. ~~The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).~~

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 17 MARCH 2003

Name and mailing address of the IPEA/US
Commissioner of Patents and Trademarks
Box PCT
Washington, D.C. 20231

Facsimile No. (703) 305-3230

Authorized officer

DANG TON

Telephone No. (703) 305-4739

I. Basis of the opinion

1. With regard to the **elements** of the international application:*

☒ the international application as originally filed

☒ the description:

pages 1-86 , as originally filed

pages NONE , filed with the demand

pages NONE , filed with the letter of _____

☒ the claims:

pages 87-114 , as originally filed

pages NONE , as amended (together with any statement) under Article 19

pages NONE , filed with the demand

pages NONE , filed with the letter of _____

☒ the drawings:

pages 1-50 , as originally filed

pages NONE , filed with the demand

pages NONE , filed with the letter of _____

☒ the sequence listing part of the description:

pages NONE , as originally filed

pages NONE , filed with the demand

pages NONE , filed with the letter of _____

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).

☐ the language of publication of the international application (under Rule 48.3(b)).

☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

☐ contained in the international application in printed form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☒ The amendments have resulted in the cancellation of:

☒ the description, pages NONE

☒ the claims, Nos. NONE

☒ the drawings, sheets/fig NONE

5. ☐ This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed".

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III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been and will not be examined in respect of:

☐ the entire international application.

☒ claims Nos. 12-137

because:

☐ the said international application, or the said claim Nos. _ relate to the following subject matter which does not require international preliminary examination (*specify*).

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _ are so unclear that no meaningful opinion could be formed (*specify*).

☐ the claims, or said claims Nos. _ are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for said claims Nos. 12-137.

2. A written opinion cannot be drawn due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:

☐ the written form has not been furnished or does not comply with the standard.

☐ the computer readable form has not been furnished or does not comply with the standard.

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IV. Lack of unity of invention

1. In response to the invitation (Form PCT/IPEA/405) to restrict or pay additional fees the applicant has:

- ☒ restricted the claims. (See Supplemental Sheet)
- ☐ paid additional fees.
- ☐ paid additional fees under protest.
- ☐ neither restricted nor paid additional fees.

2. This Authority found that the requirement of unity of invention is not complied with for the following reasons and chose, according to Rule 68.1 not to invite the applicant to restrict or pay additional fees:

3. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this opinion:

- ☐ all parts.
- ☒ the parts relating to claims Nos. 1-11.

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V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. statement

Novelty (N)	Claims	<u>1-11</u>	YES
	Claims	<u>NONE</u>	NO
Inventive Step (IS)	Claims	<u>4-7</u>	YES
	Claims	<u>1-3 and 8-11</u>	NO
Industrial Applicability (IA)	Claims	<u>1-11</u>	YES
	Claims	<u>NONE</u>	NO

2. citations and explanations

Claims 1-3 and 8-11 lack an inventive step under PCT Article 33(3) as being obvious over Manning et al. Manning et al. disclose nearly all the subject matter now claimed. Note col. 1 lines 54-63 which recite the switch fabric controller for reducing the problems associated with increasing the availability and reliability of the switch fabric of digital switching including the step of mapping the input ports to the output ports of the switch fabric clearly anticipate the digital switch including the switching fabric and blades, i.e. ports, coupling the switching fabric as in claims 1 and 11. Fig. 1 which shows the I/O modules receiving information, whereby each I/O module providing this information to the inputs of the switch fabric including the switch control module receiving control information from the various I/O modules to assist with carrying out the switching scheme clearly anticipate outputting in-band control information to the switching fabric as in claims 1 and 11. Further, col. 3 line 45 to col. 4 line 22 which recite the cell flow processor interconnecting the switch control module using serial data signals clearly anticipate the serial pipes, i.e. serial links, wherein the port outputs serial data streams to the switching fabric as in claims 1 and 10-11 and the packet processor as in claims 8 and 9. Col. 8 lines 21-39 which recite the port mapping memory includes the foreground port mapping data for the foreground switch fabric, such as an nxn cross-point switch fabric clearly anticipate the switching fabric includes cross points as in claims 1 and 3. Col. 5 lines 9-20 which recite the data signals provided from the various modules are provided as communication cells having a header portion and a data portion wherein these communication cells are provided in ATM format, or the like clearly anticipate the cells having a size no grater than 160 bytes and a payload of data no greater than 148 bytes as in claim 7. Manning et al. did not recite the term blades and serial pipes as in claims 1 and 11. However, applicant explains in the specification pages 1 and 2 that blades are merely circuit cards, including ports interconnected by switch fabric and serial pipes are merely serial links. It would have been obvious to substitute the terms blades and serial pipes for circuit cards or ports interconnected by switch fabric and (Continued on Supplemental Sheet.)

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Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: Boxes I - VIII

Sheet 10

TIME LIMIT:

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.

CLASSIFICATION:

The International Patent Classification (IPC) and/or the National classification are as listed below:
IPC(7): H04J 3/02, 3/14, 3/24; H04Q 11/04 and US Cl.: 370/229, 230, 244, 352, 359, 395.1, 395.7, 395.71, 395.72, 398, 412, 413, 414, 419

IV. LACK OF UNITY OF INVENTION:

1. This response is made to a telephone Lack of Unity requirement (see telephone memorandum attached hereto or attached to a prior Written Opinion).

V. 2. REASONED STATEMENTS - CITATIONS AND EXPLANATIONS (Continued):

serial links respectively, because applicant recites in the specification that they are equivalent.

----- NEW CITATIONS -----

NONE